

Wildlife Restoration/Hunter Education Advisory Team



Advisory 2020-024: Providing a Public Benefit at Third-party

Target Ranges

November 16, 2020

What public benefit is required when a State subawards funds for activities associated with target ranges at third-party owned or operated facilities?

Discussion: The WSFR program has a long history of partnering with third parties to accomplish program objectives. Third parties may own and/or operate target ranges or be willing to partner with a State fish and wildlife agency or subrecipient to support development of range facilities by offering their real property to construct new or expand existing facilities, or to enhance, operate, or maintain existing facilities. These partnerships augment the State fish and wildlife agency's ability to offer more opportunities for target shooting without the need to acquire additional real property, or to directly operate or maintain the facility as States and WSFR have done through small range grant programs. These partnerships with third parties, even though advantageous, are not without their vulnerabilities. The Office of the Inspector General (OIG) has cited deficiencies in projects on real property where WSFR financial assistance recipients do not hold title, but where Federal financial assistance has been used to improve property and/or habitat to achieve various objectives. The concerns cited by the OIG include operation and maintenance of the facilities for their expected useful life, liability for safety and security, collecting fees, and providing a public benefit by allowing public access to the facilities. The OIG required WSFR to set a standard for public access, which is currently included in the *WSFR Third-party Agreement Best Management Practices* (see link below).

Public benefit is an expectation of all Federal financial assistance. The Federal Grant and Cooperative Agreement Act of 1977 states in Section 5, 41 U.S.C. 504, that Federal agencies shall use grant agreements with States when the principal purpose of the relationship is the transfer of money, property, services, or anything of value to the State in order to accomplish a public purpose of support or stimulation authorized by a Federal statute. The purpose of the Target Practice and Marksmanship Training Support Act (P. Law 116-17, March 10, 2019) is to facilitate the construction and expansion of public target ranges. "Public target range" is defined in the Act to mean a specific location that, among other criteria, is open to the public. One of the purposes of the Modernizing PR Act is to recruit and retain recreational shooters. Public purpose and benefit for using WSFR funding for target ranges are achieved through the definition added by P. Law 116-17 and the requirement for public access\availability to the range.

In addition, the Wildlife Restoration Act stipulates that all projects shall conform to the standards fixed by the Secretary. Target range grant projects must meet the same criteria as all other WSFR-funded projects, including costs that are necessary and reasonable (see 2 CFR 200.403) and being substantial in character and design, including being cost effective (see 50 C.F.R. 80.56(d)). If a target range grant does not provide public access, it is not providing the required public benefit. If the target range is restricted where only a limited number of members can participate in shooting, it also is not a cost-efficient way of promoting recreational shooting. We recognize that the target range facility is still owned or operated by a third party and, according to the agreement with the State

agency, may designate periods for public access and well as periods where there will not be public access. WSFR will require that grants for target range construction, renovation, operation, or maintenance with third-party entities include an agreement between the State fish and wildlife agency and the third party that describes roles, responsibilities, and public access that is commensurate at least with the Federal funds being invested in the project. WSFR will not approve a target range grant that doesn't include a condition that the public has routine, defined access to use the target range (i.e., designated time and day), commensurate at least with the value of the grant award, as determined by WSFR Regional Grant Managers. One-off or occasional events such as shooting competitions/events may be considered eligible for R3 funding, but do not provide the basic public access required under a third-party target range grant.

Advisory: The Wildlife Restoration Act authorizes activities that have different public benefit objectives. Grants that have an objective to restore species populations or habitats may restrict public access but support the public benefit by conserving, protecting and enhancing wildlife and their habitats for the continuing benefit of the American people. Grants that have an objective to provide/support recreational activities, such as target ranges, must provide public access. The Target Practice and Marksmanship Training Support Act provides a definition for “public target range” to include “open to the public,” meaning it provides public access. WSFR will apply this definition to all WSFR-funded activities for target ranges/ranges, irrespective of whether the word “public” is included in text. A State fish and wildlife agency may subaward funds for target shooting range (archery or firearm) construction, renovation, operation, and maintenance at third-party-owned or operated third party ranges if the project meets the required grant elements (necessary and reasonable costs, substantial in character and design, etc.), is an eligible activity using the appropriate funding source (see link below), and demonstrates through a third-party agreement that public access is provided commensurate at least with the Federally-funded investment.

Public target range activities may be funded using various sources of funding under the Wildlife Restoration Act. See [Funding Public Target Ranges Reference](#) for alternatives.

See the link below for WSFR Third-party Agreement Best Management Practices that includes information on what is meant by “public” and the prescribed method for determining the amount of reasonable public access. The BMP also includes supporting information on items such as access fees charged, monitoring, signs, and useful life.

[WSFR Third-party Agreement Best Management Practices](#)

Terms (proposed):

Public means of, relating to, or affecting all people in general.

Public access means the public has opportunity, permission, and/or ability to enter, approach, or pass to and from a place for an authorized purpose. Access that is limited by factors that would exclude members of the public is not considered public access. Limiting factors to public access include membership, enrollment, or other requirements that result in making access exclusive only to certain groups of individuals.